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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
(SAN FRANCISCO DIVISION)

GIL CROSTHWAITE et al.,

Plaintiffs,

VS.

GOLDEN HILLS CONTRACTORS, INC. et al.

Defendants.

Case No.: C 06-07779 JSW

**STIPULATION TO CONTINUE CASE
MANAGEMENT CONFERENCE AND
ALLOW FILING OF FIRST AMENDED
COMPLAINT; ~~[PROPOSED]~~ ORDER
THEREON**

Plaintiffs and Defendants hereby stipulate and agree to continue the case management conference currently calendared for April 27, 2007 at 1:30 p.m. until June 22, 2007 at 1:30 p.m., or the first available date thereafter on which the Court is available to conduct the case management conference.

The reason for the continuance is as follows. After the original complaint in this matter was filed, the Plaintiffs received information from Defendant Golden Hills Contractors, Inc. regarding four public works projects on which its employees performed work that is covered by its collective bargaining agreement with Operating Engineers Local Union Number 3 and based up which trust fund contributions are owed, but were not paid by Golden Hills Contractors, Inc.

In light of such information, the Plaintiffs contacted the general contractor who posted the

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1 payment bonds for the public works projects and attempted to collect the sums owed for work
2 performed on those jobs. The Operating Engineers Trust Funds collected the contributions owed
3 on one of the jobs without filing a payment bond claim, but did not collect contributions for the
4 other three jobs. Claims were therefore filed by the Operating Engineers Trust Funds against the
5 respective surety who wrote the bonds for the other three jobs.

6
7 In light of the three outstanding payment bond claims, which if collected would provide
8 payment of a significant portion of the damages sought in complaint, the Operating Engineers
9 Trust Funds intend to amend the complaint to state three causes of action for enforcement of the
10 payment bond claims against Travelers Casualty And Surety Company of America, the surety
11 who underwrote the payment bonds.

12 The Operating Engineers Trust Funds also intend to amend the complaint to include the
13 moneys payable for hours worked in Nevada employees of Golden Hills Contractors, Inc. which
14 were not known at the time the original complaint was filed. This was because Golden Hills
15 Contractors, Inc. remitted its contribution reports for the months of July, August, September and
16 October of 2006, late and without payment in January of 2007. The damages will also be
17 amended to reflect the payment received in the amount of \$27,367.21 received from a general
18 contractor for whom the work on one of four public works contracts was performed by Golden
19 Hills Contractors, Inc.

20
21 The claim against SURETY COMPANY OF THE PACIFIC to enforce the Operating
22 Engineers Trust Funds' claim in the amount of \$4,000.00 against Golden Hills Contractors,
23 Inc.'s contractors license bond will not be modified in the amended complaint. The answer filed
24 by SURETY COMPANY OF THE PACIFIC to the original complaint will therefore be deemed
25

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the answer to the First Amended Complaint as of the date the First Amended Complaint is filed by the Court.

SURETY COMPANY OF THE PACIFIC, who is the only named Defendant who filed an answer to the original complaint, stipulates to allow the Operating Engineers Trust Funds to file the amended complaint, a copy of which is attached hereto as Exhibit A.

Continuing the matter promotes judicial efficiency and preserves the resources of the parties, in light of the filing of the amended complaint, since Travelers Casualty and Surety Company of America, the additional Defendant that Plaintiffs intend to name in the amended complaint would not be present if the case management conference were held on April 27, 2007.

RESPECTFULLY SUBMITTED.

Dated this 17th day of April of 2007

OPERATING ENGINEERS LOCAL UNION NO. 3
TRUST FUNDS - MULTI-SERVICES

By: Tracy L. Mainguy
TRACY L. MAINGUY
ATTORNEY FOR PLAINTIFFS

Dated this 4/17/07 day of October of 2006

LAW OFFICES OF GEISSLER AND NIMOY
By: Steven S. Nimoy
STEVEN S. NIMOY

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ORDER

Based upon the above-stated stipulation, and good cause appearing, the case management conference scheduled for April 27, 2007 at 1:30 p.m., is continued until June 22, 2007 at 1:30 p.m.. The parties are to file their joint case management conference statement no later than May 18, 2007. Additionally, Plaintiffs may file their First Amended Complaint, a copy of which is attached hereto as Exhibit A. The answer filed by SURETY COMPANY OF THE PACIFIC to the original complaint will therefore be deemed the answer to the First Amended Complaint as of the date the First Amended Complaint is filed by the Court.

Dated: April 19, 2007


HONORABLE JEFFERY S. WHITE
HON. UNITED STATES DISTRICT COURT JUDGE

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